

## **BILL ANALYSIS**

Senate Research Center  
80R3600 KCR-F

S.B. 548  
By: Carona  
Business & Commerce  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Currently, the notice of intent to prosecute the issuer of a dishonored check must be sent by registered or certified mail, with return receipt requested, or by telegram with report of delivery requested by the holder of the instrument. In recent years, the cost of certified/registered mail has increased, compounding the financial losses of businesses that have had a check returned for insufficient funds.

As proposed, S.B. 548 allows the holder of a dishonored check to notify the issuer of intent to prosecute by first-class mail, with delivery evidenced by an affidavit of service. S.B. 548 also requires the issuer of a dishonored check to reimburse the holder of a dishonored check for the cost of sending notice of intent to prosecute by registered or certified mail with return receipt requested.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 31.06(b), Penal Code, as follows:

(b) Authorizes a notice of refusal of payment to be actual notice or notice in writing if it is sent by first class mail, evidenced by an affidavit of service, or registered or certified mail with return receipt requested if requested and paid for or agreed to be paid for by the issuer. Deletes existing text relating to a notice sent by telegram. Makes a nonsubstantive change.

SECTION 2. Amends Section 32.41(c), Penal Code, as follows:

(c) Makes conforming changes. Deletes existing text relating to a letter being returned unopened with an incorrect address and no current forwarding order.

SECTION 3. Amends Article 102.007, Code of Criminal Procedure, by adding Subsection (g), as follows:

(g) Provides that the issuer of a check or similar sight order that has been issued or passed under Subsection (a)(1) (relating to an issuance or passage which creates an offense) is liable for a fee in an amount equal to the cost of delivering notification by registered or certified mail with return receipt requested. Requires that the fee be collected in all such cases and remitted to the holder of the check or similar sight order on receipt of proof of the actual costs expended.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Effective date: September 1, 2007.